THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION.No.19288 OF 2005

Dt:01.09.2005

Between:

K.Rama Raju and others

.. Petitioners

and

The Singareni Collieries Co. Ltd.

and another

.. Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION.No.19288 OF 2005

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ORDER:

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The petitioners were employed as Overmen (trainee), Grade 'C' in January, 2001 in the Singareni Collieries, on the basis of selection. Two years thereafter, they were promoted as Overmen, Grade 'B'. On 11.02.2005, all of them were addressed a letter to the effect that they were paid certain amount during their training, in excess of their entitlement and in view of the objection pointed out during the audit, it is proposed to recover the same in 36 monthly instalments commencing from February, 2005. The petitioners filed representations, dated 17.02.2005, on receipt

of the letter, dated 11.02.2005. A reply was given on behalf of the respondents on 04.03.2005 affirming their action to affect recoveries from the petitioners. This writ petition is filed challenging the action of the respondents in this regard.

Sri K.Vasudeva Reddy, the learned counsel for the petitioner submits that the recovery order was not preceded by any enquiry and it is not even alleged that the petitioners have misrepresented the respondents or derived any undue benefit. He submits that the basis for such recovery was also not indicated and had the petitioners been informed of the detailed reasons, they would have certainly submitted an explanation or representation to the respondents.

Sri N.Krishna Rao, the learned counsel for the respondents, on the other hand, submits that the scale of pay for the post of Overmen (trainee), Grade 'C' and the allowances payable thereon were notified, and by mistake, the petitioners were extended the emoluments payable to Overmen Grade-B. He further submits that the recovery of the amount paid in excess of the entitlement of an employee cannot be treated as a punishment and, as such, there was no necessity to issue notice before affecting the said recoveries.

The letter, dated 11.02.2005, does not state the precise reasons, for affecting recovery from the petitioners, nor does it furnish, the break-up of the amount said to have been paid in excess to the petitioners. Affecting recovery of salaries would have its own adverse impact on an employee and before taking such an action, the affected person is required to be put on notice. In such an event, the employee would be in a position to make an attempt to convince the employer on various aspects. The relevant provisions may have to be examined and the point of view, expressed by the affected party, may have to be considered. Such an exercise was not undertaken in the instant case.

The petitioners' submitted representations after receiving the letter, dated 11.02.2005. Even such representations were on the basis of some guesswork and they did not know the exact reasons that prompted the respondents to affect recoveries. The fact that the respondents rejected the representations and affirmed their earlier action cannot wipe away the defect of non-issuance of notice before taking a decision to affect recoveries.

On this short ground, the writ petition is allowed and the letter, dated 11.02.2005, proposing to affect recoveries from the petitioners, is set aside. However, it shall be

open to the respondents to issue notice to the petitioners pointing out the reasons and basis of such recovery, and take further action on consideration of the explanation that may be submitted by the petitioners.

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01.09.2005

Note: Issue C.C. in one week

(B/o)

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